

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESale PRICE	)	
LITIGATION	)	MDL No. 1456
	)	Civil Action No. 01-12257-PBS
	)	
	)	Hon. Patti B. Saris
<b>THIS DOCUMENT RELATES TO:</b>	)	
	)	Magistrate Judge Marianne B.
<i>United States of America, ex rel. Ven-a-Care</i>	)	Bowler
<i>of the Florida Keys, Inc. v. Abbott</i>	)	
<i>Laboratories, Inc.,</i>	)	
CIVIL ACTION NO. 06-CV-1337-PBS	)	

**EXHIBIT J**  
**to**

**RELATORS' MEMORANDUM OF LAW IN SUPPORT OF ITS**  
**MOTION TO COMPEL ABBOTT LABORATORIES, INC TO**  
**PRODUCE OR CONSENT TO ACCESS TO AND SHARING OF ALL**  
**DISCOVERY PRODUCED BY ABBOTT IN OTHER FALSE PRICE**  
**REPORT LITIGATION**

## JONES DAY

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080024-024348

February 12, 2007

VIA E-MAIL JBREEN@BREENLAW.COM

James J. Breen  
The Breen Law Firm, P.A.  
5755 North Point Pkwy, Suite 39  
Alpharetta, GA 30022

Re: U.S. ex rel. Ven-a-Care of the Florida Keys, Inc. v. Abbott Labs, Inc.; No. 06 CV 11337

Dear Jim:

I received your letter of February 8, 2007, and respond to your numbered inquiries as follows:

1. Please refer to my letter of February 5, 2007 to Renee Brooker, wherein I addressed the issue of production to DOJ of transcripts of depositions taken in other matters (which would include Texas). I have attached a copy of that letter as Exhibit A.
2. No, Abbott will not agree to your proposal that Ven-a-Care may freely share Texas deposition transcripts with DOJ. I understand that the issue of sharing is currently the subject of a motion in MDL 1456, and we await the Court's ruling.
3. Your final question is one that we should revisit if, and when, there is any refusal by Abbott to produce to DOJ particular transcripts from the Texas action. Your proposal of filing any such contested transcripts under seal in support of a motion to compel would, of course, have the practical effect of giving DOJ (via the required service copy) the very transcripts at issue – thereby granting your own motion before it is ever heard by the Court. If the need for motions does arise, I trust we will be able to work something out that would accommodate your filing needs without rendering the motion a fait accompli.

CHI-1574347v1

JONES DAY

James J. Breen  
February 12, 2007  
Page 2

Sincerely,



Jason G. Winchester

cc: Jim Daly  
Christopher Cook  
Renee Brooker  
Gejaa Gobena